

Control Number: 48471



Item Number: 1

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48471

DOCKET NO. _____

PETITION TO REVOKE LOHMAN'S §
FORD WATER COMPANY'S §
CERTIFICATE OF PUBLIC §
CONVENIENCE AND NECESSITY §
PURSUANT TO TEX. WATER CODE §
ANN. § 13.254 AND 16 TAC § 24.113 §

PUBLIC UTILITY COMMISSION

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COMMISSION STAFF'S PETITION TO REVOKE
LOHMAN'S FORD WATER COMPANY'S
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND
NOTICE OF OPPORTUNITY FOR A HEARING

Staff of the Public Utility Commission of Texas (Commission) files this Petition to Revoke Lohman's Ford Water Company's Certificate of Public Convenience and Necessity (Petition) and hereby provides notice of the opportunity to request a hearing on the merits of this Petition.

I. INTRODUCTION

For the reasons discussed below, the water service Certificate of Public Convenience and Necessity (CCN) No. 11894 for Lohman's Ford Water Company (Lohman) should be revoked. Upon investigation, Commission Staff has determined that the public water system associated with Lohman is inactive, and that the CCN should be revoked.

In the event Lohman fails to request a hearing within thirty days of service of this Petition, a default order should be issued, without additional notice to Lohman, granting all relief sought in this Petition. In support of this Petition, Commission Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction.¹ Pursuant to Tex. Water Code Ann. § 13.242 (TWC), a "water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the utility commission a

¹ Tex. Water Code Ann. § 13.041 (West Supp. 2014) (TWC).

certificate that the present or future public convenience and necessity will require that installation, operation, or extension.”

A CCN is defined as “[a] permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area.”² A retail public utility is “[a]ny person corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.”³

A retail public utility that possesses a CCN is required to provide continuous and adequate service.⁴ A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.⁵ As part of this authority, the Commission, “after notice and hearing, may revoke or amend any” CCN if the Commission finds that “the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate.”⁶

Pursuant to the contested case provisions of the Administrative Procedure Act,⁷ a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case.⁸ If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.⁹ Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.¹⁰

III. FACTUAL ALLEGATIONS

Lohman is located in Travis County, Texas in the City of Austin. On May 2, 1985, Lohman filed an application with the Secretary of State to become a Texas corporation. On September 26, 1985, Lohman was granted CNN No. 11894. Lohman underwent a tax forfeiture on November 20,

² 16 Tex. Admin. Code § 24.3(15) (TAC).

³ TWC § 13.002(19) and 16 TAC § 24.3(58).

⁴ See TWC § 13.250(a) and 16 TAC § 24.114.

⁵ TWC § 13.254(a)(1) and 16 TAC 24.113(a)(1).

⁶ *Id.*

⁷ Administrative Procedure Act, Tex. Gov’t Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

⁸ APA §§ 2001.051-.178.

⁹ 16 TAC § 22.183.

¹⁰ APA § 2001.056(4) and 16 TAC § 22.183.

1989. The utility has ceased to operate, and is now listed as inactive on the Secretary of State's website. Commission Staff's review of Commission's records indicate that Lohman is no longer in business, and the facilities it used to provide continuous and adequate service are inactive. Therefore, Lohman is no longer providing, and is incapable of providing, continuous and adequate service.

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke Lohman's CCN No. 11894 because Lohman is no longer in business, and the facilities it used to provide continuous and adequate service are inactive.¹¹ As long as CCN No. 11894 continues to remain in effect, it may be a violation of Commission rules for another company to provide service in the certificated area.¹²

For the above stated reasons, Commission Staff recommends revocation of CCN No. 11894 pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.113(i)(1)(A).

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC §§ 22.54 and 22.55 require Commission Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act.¹³ In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." In order to proceed on a default basis, 16 TAC § 22.183 requires Commission Staff to provide notice by certified mail, return receipt requested: (a) to a certificate holder's last known address in the Commission's records; (b) to the person's registered agent for process on file with the Secretary of State; or (3) to an address for the party identified after reasonable investigation if the first two options are not applicable.

In accordance with these provisions, Commission Staff will provide a copy of this petition by certified mail, return receipt requested, to Lohman's last known address in the TCEQ's and Commission's records:

¹¹ See TWC § 13.254(a)(1) and 16 TAC 24.113(i)(1)(A).

¹² See TWC § 13.242.

¹³ APA §§ 2001.001-.902.

Lohman's Ford Water Company
101 S. Capital of Texas HWY, BLDG H-262
Austin, TX 78746

Commission Staff will also provide a copy of this petition by certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

George R Eeds
9442 Capital of TX HWY, No. PLZ One, STE. 790
Austin, TX 78759

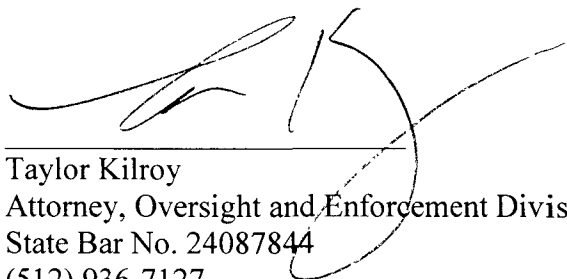
Pursuant to 16 TAC § 22.183, Commission Staff hereby notifies Lohman that the factual allegations in this petition could be deemed admitted, and the relief sought herein granted by default if Lohman fails to request a hearing within 30 days after service of the Petition and Notice of Opportunity for Hearing. The purpose of a hearing on the merits is to consider revocation of Lohman's CCN No. 11894. If Lohman fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to APA § 2001.056(4) and 16 TAC § 22.183.

The factual allegations listed in Commission Staff's Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

VI. REQUEST

WHEREFORE, PREMISES CONSIDERED, Commission Staff respectfully requests that the Commission grants Commission Staff's request to revoke Lohman's CCN No. 11894. In the event that Lohman fails to request a hearing on the merits, Commission Staff requests that the Commission issue a default final order, with no further notice to Lohman, revoking CCN No. 11894.

Respectfully Submitted,



Taylor Kilroy
Attorney, Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78701-3326

CERTIFICATE OF SERVICE

I certify that on June 18, 2018, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address Lohman's Ford Water Company (Lohman) in the Commission's records and to the address for the registered agent for process on file with the Secretary of State:

Lohman's Last Known Address in Commission Records:

Lohman's Ford Water Company
101 S. Capital of Texas HWY, BLDG H-262
Austin, TX 78746

Address for the registered agent for process on file with the Secretary of State:

George R Eeds
9442 Capital of TX HWY, No. PLZ One, STE. 790
Austin, TX 78759



Taylor Kilroy

Attachment 1

Map of Water Service Certificate of Convenience and Necessity




No. 11894

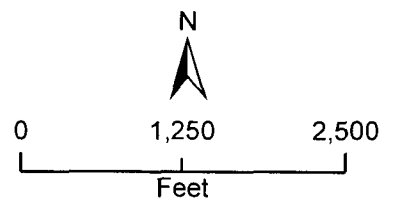
Lohman's Ford Water Company Water CCN No. 11894 in Travis County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCNs

-  11894 - Lohman's Ford Water Company
-  11115 - Jonestown WSC
-  12010 - Travis County WCID 17



Map by: Kristy Nguyen
Date created: May 25, 2018
Project path: n:\11894 lohman ford water\11894 lohman ford water

Attachment 2

Order Granting Water Service Certificate of Convenience and
Necessity

No. 11894

DOCKET NOS. 6042, 6044, 6243, 6296, and 6345

APPLICATIONS OF STAN BLAKNEY, ET AL.,
TO OBTAIN OR AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY WITHIN
VARIOUS COUNTIES

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

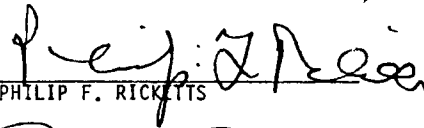
In public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that the above styled applications were processed in accordance with applicable statutes and Commission rules by an administrative law judge who prepared and filed a report containing Findings of Fact and Conclusions of Law; that Examiner's Report is ADOPTED and made a part hereof. The Commission further issues the following Order:

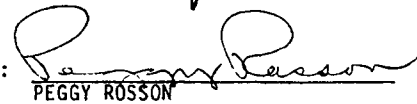
1. Stan Blakney is GRANTED the certificate of convenience and necessity as requested in Docket No. 6042 and described in Finding of Fact No. 1, and is assigned Certificate of Convenience and Necessity No. 11892.
2. San Jacinto Water Supply Corporation's Certificate of Convenience and Necessity No. 10124 is AMENDED as requested in Docket No. 6042 and described in Finding of Fact No. 2.
3. Valley Domestic Water Corporation's Certificate of Convenience and Necessity No. 11861 is AMENDED as requested in Docket No. 6243 and described in Finding of Fact No. 3.
4. Lohman's Ford Water Company is GRANTED the certificate of convenience and necessity as requested in Docket No. 6296 and described in Finding of Fact No. 4, and is assigned Certificate of Convenience and Necessity No. 11894.
5. Batesville Water Supply Corporation is GRANTED the certificate of convenience and necessity as requested in Docket No. 6345 and described in Finding of Fact No. 5, and is assigned Certificate of Convenience and Necessity No. 11895. Batesville Water Supply Corporation is further ORDERED to bring its water system into compliance, within one year from the date of the signing of this order, with statutes and regulations administered by the Texas Department of Health.

6. The certificates of convenience and necessity granted or amended in this Order are not transferable without the approval of the Commission.

SIGNED AT AUSTIN, TEXAS, on this the 26th day of September, 1985.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: 
PHILIP F. RICKETTS

SIGNED: 
PEGGY ROSSON

SIGNED: 
DENNIS L. THOMAS

ATTEST:


RHONDA COLBERT RYAN
SECRETARY OF THE COMMISSION

1s